

Agency Proposal for Legislation for the 2017 Legislative Session

AGENCY NAME: Department of Agriculture

CONTACT/TITLE: Cort Jensen, Chief Legal Counsel

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1. What is the problem or issue?

In the Department's pesticide program, product registration fees have not been changed since 2001, commercial applicator license fees have not been adjusted since 1989, and private applicator program funding has not changed since 1983. These fees are no longer sufficient to support existing product registration, certification and licensing, compliance, enforcement, educational, laboratory testing, waste pesticide product disposal, and pesticide container recycling activities. There is also a need to support statewide noxious weed coordination and private applicator training at MSU Extension. The EPA has nearly completed federal rulemaking that may require changes to the Montana Pesticide Act.

2. What do you want the legislation to do?

The legislation as proposed will adjust pesticide product registration and applicator licensing fees in the Montana pesticide act to cover the costs of existing activities provided for in the act as well as statewide noxious weed coordination; update sections of the act for housekeeping purposes and for clarification; provide funding for MSU Agriculture Extension Service private applicator training activities; and enact any necessary changes related to new EPA guidelines. The department has been working with industry groups to develop the legislation.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

Amend 80-8-102, 80-8-111, 80-8-201, 80-8-202, 80-8-203, 80-8-205, 80-8-207, 80-8-209, 80-8-213, 80-8-214, 80-8-302, 80-8-401, 80-8-402, and 80-8-404, MCA and repeal 80-8-208, MCA

4. If the proposed change requires additional funding, what funding sources do you propose (e.g., an increase in or both)?

The Department has worked with industry representatives to settle on an acceptable fee range for pesticide registration and on fees for licensing and permitting. The funding is in a state special revenue account.

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

No.

**Economic Affairs Interim Committee
August 30-31, 2016**

EXHIBIT 16

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1. What is the problem or issue?

The fees generated by nursery licenses and inspections do not cover the costs to carry out the objectives of the program. The nursery industry desires elimination of the nursery inspection fee and is engaged in discussion with the department about a new nursery license fee structure. Currently, the use of civil penalties is restricted to education, training, research, and development; those funds are not available to the department for response to violations or invasive plants and plant pests.

2. What do you want the legislation to do?

The legislation as proposed will eliminate nursery inspection fees; adjust the nursery license fees to cover the costs of support, protection and regulatory oversight of the nursery industry; update sections of the act for housekeeping purposes and for clarification; and allow civil penalties to be used to remediate and control unwanted pests and diseases that could harm the nursery and agriculture industries.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

80-7-105, 80-7-106, 80-7-108, 80-7-109, 80-7-110, 80-7-122, 80-7-123, 80-7-133 and 80-7-135, MCA.

4. If the proposed change requires additional funding, what funding sources do you propose (e.g., an increase in or both)?

The Department has worked with representatives from the nursery industry to develop a tiered fee schedule to provide additional funding. The funding is in a state special revenue account.

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

The Department has requested similar legislation in the past. (2015 session LC0523)

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1. What is the problem or issue?

The FDA Rule "Standards for Growing, Harvesting, Packing, & Holding of Produce for Human Consumption" will require changes to the Montana Produce Act.

2. What do you want the legislation to do?

The legislation as proposed will generally revise food safety laws to conform to federal food safety modernization act requirements. The department would have the opportunity to provide education and technical assistance to producers and handlers about produce safety programs, encourage safe production of fresh fruits and vegetables, and later implement an inspection, compliance and enforcement program.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

Not yet verified.

4. If the proposed change requires additional funding, what funding sources do you propose (e.g., an increase in or both)?

The department may receive federal funding in order to meet requirements of the food safety modernization act.

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

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1. What is the problem or issue?

The vertebrate pest management statutes do not reflect current needs.

2. What do you want the legislation to do?

The legislation as proposed will repeal the vertebrate pest management advisory council, which has not been active in more than 20 years; repeal the unnecessary requirement for the rodenticide fund; repeal the department purchase and sale of vertebrate pest management supplies; and update the definition of vertebrate pests and nuisance birds in order to cover pests that the department is dealing with which are not included in the current definition.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

Amend 80-4-1101, MCA and repeal 80-7-1103, 80-7-1104, and 80-7-1105, MCA.

4. If the proposed change requires additional funding, what funding sources do you propose (e.g., an increase in or both)?

This proposed legislation does not require additional funding.

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

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1. What is the problem or issue?

The Commercial Feed law says that all licensees shall file a tonnage report, but distributors and pet food manufacturers or guarantors, who are licensed, are not responsible for tonnage. Therefore, they always submit a "zero" report as required by the law but there is no actual need for distributors, pet food manufacturers, or guarantors to submit a report.

2. What do you want the legislation to do?

The legislation as proposed will clarify the responsible party for reporting requirements of commercial feed. Clarifying the act will eliminate reporting requirements for about 650 business entities and reduce paperwork for not only the department but also the impacted businesses.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

80-9-101, and 80-9-206, MCA.

4. If the proposed change requires additional funding, what funding sources do you propose (e.g., an increase in or both)?

This proposed legislation does not require additional funding.

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

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1. What is the problem or issue?

In statutes for agricultural seed, commercial fertilizer, commercial feed, and produce, licensees pay assessments based on tonnage or gross sales. Because of the variable timing of agriculture activity, this can result in extremely small assessments due the department (such as \$0.12). It is fiscally inefficient not only for the department to process such small dollar amounts submitted by check but also for the business entity to process and send checks for very small amounts. As the department implements e-government payment solutions, transaction fees on tiny payments will hinder adoption rates of the new technology. Commercial fertilizer tonnage assessment late fees and license late fees are not clearly defined which could lead to inconsistent application.

2. What do you want the legislation to do?

The legislation as proposed will reduce or completely eliminate the possibility that an industry business has to submit required payments when the payment is a miniscule amount, and will mirror other statutes for application of late fees.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

Not yet verified.

4. If the proposed change requires additional funding, what funding sources do you propose (e.g., an increase in or both)?

This proposed legislation does not require additional funding.

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

No.